

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

MAR 30 2009

JOEL S. ARIO,
Insurance Commissioner of the
Commonwealth of Pennsylvania,

Plaintiff,

v.

No. 269 M.D. 2001

RELIANCE INSURANCE COMPANY,

Defendant.

In Re: Underwriting Members of Syndicates 79, 456, 1215, 2999, 47, 204, 219, 484, 858, 2488, 435, 623, 2623, 839, 1007, 1212, 376, 1096, 205, 250 and 1173, ZURICH RE (UK) LTD., and ST. PAUL REINSURANCE COMPANY LIMITED (n/k/a UNIONAMERICA INSURANCE COMPANY LIMITED)

ORDER

AND NOW, this _____ day of _____, 2009, upon consideration of the Joint Motion to Dismiss Only the Request for Declaratory Judgment Claims of Underwriting Members of Lloyd's of London Syndicates 1212, 1007 and Zurich Re (UK) Ltd., With Prejudice, and to Dismiss Only the Request for Declaratory Judgment and Counterclaims Against Underwriting Members of Lloyd's of London Syndicates 1212, 1007 and Zurich Re (UK) Ltd., With Prejudice, it is hereby ORDERED and DECREED that:

1. The Joint Motion to Dismiss Only the Request for Declaratory Judgment Claims of Underwriting Members of Lloyd's of London Syndicates 1212, 1007 and Zurich Re (UK) Ltd., With Prejudice, and to Dismiss Only the Request for Declaratory Judgment and Counterclaims Against Underwriting Members of Lloyd's of London Syndicates 1212, 1007 and Zurich Re (UK) Ltd., With Prejudice is hereby GRANTED, and each party shall bear their own costs.

J.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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RELIANCE INSURANCE COMPANY,

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No. 269 M.D. 2001

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**JOINT MOTION TO DISMISS ONLY THE REQUEST FOR DECLARATORY
JUDGMENT AND CLAIMS OF UNDERWRITING MEMBERS OF LLOYD'S OF
LONDON SYNDICATES 1212, 1007 and ZURICH RE (UK), LTD,
WITH PREJUDICE, AND TO DISMISS ONLY THE REQUEST FOR
DECLARATORY JUDGMENT AND COUNTERCLAIMS AGAINST
UNDERWRITING MEMBERS OF LLOYD'S OF LONDON SYNDICATES
1212, 1007 and ZURICH RE (UK), LTD., WITH PREJUDICE**

Underwriting Members of Lloyd's of London Syndicates 1212, 1007 and Zurich Re (UK) Ltd. (hereinafter "Syndicates 1212, 1007 and Zurich") file this Joint Motion to Dismiss Only the Request for Declaratory Judgment Claims of Syndicates 1212, 1007 and Zurich, With Prejudice, and to Dismiss Only the Request for Declaratory Judgment and Counterclaims Against Syndicates 1212, 1007 and Zurich, With Prejudice, in the above matter and, in support thereof, states as follows:

1. On August 26, 2008, pursuant to an Order entered by this Court granting the Petition to Intervene, for relief from the Stay and for Leave to File a Declaratory Judgment Action, a Declaratory Judgment Action was filed against Defendant Reliance Insurance Company (In Liquidation) and Reliance Insurance Company (collectively "Reliance") on behalf of named Petitioners "Underwriting Members of Lloyd's of London Syndicates 79, 456, 1215, 2999, 47, 204, 219, 484, 858, 2488, 435, 623, 2623, 839, 1007, 1212, 376, 1096, 205, 250, 1173, Zurich Re (UK) Ltd. and St. Paul Reinsurance Company Limited (n/k/a Union America Insurance Company Limited)."

2. On September 24, 2008, Joel S. Ario, Insurance Commissioner of the Commonwealth of Pennsylvania, acting in his official capacity as Statutory Liquidator of Reliance Insurance Company (In Liquidation) (the "Liquidator") filed an Answer, New Matter and Counterclaim to the Declaratory Judgment Action. The Counterclaim for Declaratory Judgment was filed against Underwriting Members of Lloyd's of London Syndicates 79, 456, 47, 204, 219, 484, 435, 623, 839, 1007, 1212, 1096, 205, 250, Zurich Re (UK) Ltd. and St. Paul Reinsurance Company Limited (n/k/a Union America Insurance Company Limited).

3. On October 14, 2008, the Counterclaim Defendants filed Preliminary Objections to the Answer, New Matter and to the Counterclaim for Declaratory Relief.

4. On November 6, 2008, the Liquidator filed an Amended Answer, New Matter and Counterclaim for Declaratory Judgment. The Amended Counterclaim for Declaratory Judgment was again filed against Underwriting Members of Lloyd's of London Syndicates 79, 456, 47, 204, 219, 484, 435, 623, 839, 1007, 1212, 1096, 205, 250, Zurich Re (UK) Ltd. and St. Paul Reinsurance Company Limited (n/k/a Union America Insurance Company Limited).

5. On November 24, 2008, the Counterclaim Defendants filed an Answer to the Amended New Matter and filed Second Preliminary Objections to the Amended Counterclaim for Declaratory Judgment filed against Underwriting Members of Lloyd's of London Syndicates 79, 456, 47, 204, 219, 484, 435, 623, 839, 1007, 1212, 1096, 205, 250, Zurich Re (UK) Ltd. and St. Paul Reinsurance Company Limited (n/k/a Union America Insurance Company Limited).

6. On December 15, 2008, the Liquidator filed a Response in Opposition to Counterclaim Defendants' Preliminary Objections to the Amended Counterclaim.

7. The Preliminary Objections to the Amended Counterclaim currently remain pending before this Honorable Court.

8. Since the dates on which the Declaratory Judgment action and the Counterclaims for Declaratory Judgment were filed, the claims made by Syndicates 1212, 1007 and Zurich against Reliance and the claims made by Reliance against Syndicates 1212, 1007 and Zurich have been settled and/or resolved.

9. A Joint Stipulation of Counsel which confirms the settlement and/or resolution of the claims of Syndicates 1212, 1007 and Zurich, and of the claims of Reliance against Syndicates 1212, 1007 and Zurich, and the Joint Dismissal of the Claims and Counterclaims, With Prejudice, related only to Syndicates 1212, 1007 and Zurich, is attached to this Motion as Exhibit "A".

10. This Joint Motion shall have no effect on the claims for Declaratory Judgment asserted against Reliance by Underwriting Members of Lloyd's of London Syndicates 79, 456, 1215, 2999, 47, 204, 219, 484, 435, 858, 2488, 623, 2623, 839, 376, 1096, 205, 250, 1173, and St. Paul Reinsurance Company Limited (n/k/a Union America Insurance Company Limited) or the Declaratory Judgment Counterclaims asserted by the Liquidator against Underwriting

Members of Lloyd's of London Syndicates 79, 456, 47, 204, 219, 484, 435, 623, 839, 1096, 205, 250, and St. Paul Reinsurance Company Limited (n/k/a Union America Insurance Company Limited), which shall continue as to all remaining parties.

WHEREFORE, Syndicates 1212, 1007 and Zurich and the Liquidator respectfully request that this Honorable Court grant the Joint Motion to Dismiss Only the Request for Declaratory Judgment Claims of Syndicates 1212, 1007 and Zurich, With Prejudice, and to Dismiss Only the Request for Declaratory Judgment and Counterclaims Against Syndicates 1212, 1007 and Zurich, With Prejudice, in the above matter. An appropriate Order has been attached for the Court's Reference.

Dated: 3/24/2009

PEPPER HAMILTON LLP

By: 

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Attorney for Reliance Insurance Company
(in Liquidation)

Dated: 3/25/09

PALMER BIEZUP & HENDERSON LLP

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Defendants

Of counsel

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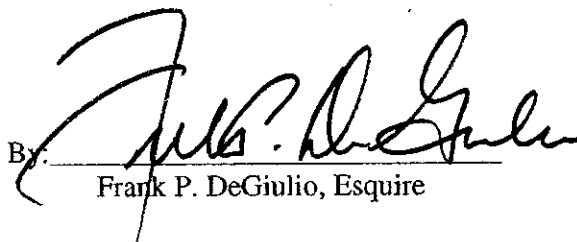
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Attorney for Plaintiffs/Counterclaim Defendants

VERIFICATION

I, Frank P. DeGiulio , Esquire, of the firm Palmer Biezup & Henderson LLP, hereby verifies that the Statements made in the foregoing Joint Motion to Dismiss Only the Request for Declaratory Judgment Claims of Syndicates 1212, 1007 and Zurich, With Prejudice, and to Dismiss Only the Request for Declaratory Judgment and Counterclaims Against Syndicates 1212, 1007 and Zurich, With Prejudice, are true and correct to the best of my knowledge, information and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

By: 
Frank P. DeGiulio, Esquire

Dated: March 25, 2009

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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Plaintiff,

v.

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Defendant.

No. 269 M.D. 2001

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AFFIDAVIT OF SERVICE

The undersigned hereby certifies that service of a true and correct copy of the attached Joint Motion to Dismiss Only the Request for Declaratory Judgment Claims of Syndicates 1212, 1007, and Zurich, With Prejudice, and to Dismiss Only the Request for Declaratory Judgment and Counterclaims Against Syndicates 1212, 1007 and Zurich, With Prejudice, was served on all counsel on the master service list via first class mail on March ²⁵, 2009.

PALMER BIEZUP & HENDERSON LLP

By: 

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JOINT STIPULATION TO DISMISS ONLY THE REQUEST FOR DECLARATORY JUDGMENT AND CLAIMS OF UNDERWRITING MEMBERS OF LLOYD'S OF LONDON SYNDICATES 1212, 1007 and ZURICH RE (UK), LTD., WITH PREJUDICE, AND TO DISMISS ONLY THE REQUEST FOR DECLARATORY JUDGMENT AND COUNTERCLAIMS AGAINST UNDERWRITING MEMBERS OF LLOYD'S OF LONDON SYNDICATES 1212, 1007 and ZURICH RE (UK), LTD., WITH PREJUDICE

The parties to the Joint Motion to Dismiss Only the Request for Declaratory Judgment and Claims of Underwriting Members of Lloyd's of London Syndicates 1212, 1007 and Zurich Syndicates (hereinafter "Syndicates 1212, 1007 and Zurich"), With Prejudice, and to Dismiss Only the Request for Declaratory Judgment and Counterclaims Against Syndicates 1212, 1007 and Zurich, With Prejudice, by and through their undersigned counsel, hereby stipulate as follows:

By virtue of the settlement between Syndicates 1212, 1007 Zurich and Reliance Insurance Company (In Liquidation), Syndicates 1212, 1007 and Zurich dismisses with prejudice the Claims for Declaratory Judgment made by Syndicates 1212, 1007 and Zurich against Defendants Reliance Insurance Company (In Liquidation), With Prejudice, and Reliance Insurance Company, and Defendant Reliance Insurance Company (In Liquidation) dismisses with prejudice the Request for Declaratory Judgment and Counterclaims made against

Syndicates 1212, 1007 and Zurich, With Prejudice, with each party to bear its own fees and costs.

It is agreed that this Stipulation shall have no effect on the claims for Declaratory Judgment asserted against Reliance Insurance Company (In Liquidation) by Underwriting Members of Lloyd's of London Syndicates 79, 456, 1215, 2999, 47, 204, 219, 484, 435, 858, 2488, 623, 2623, 839, 376, 1096, 205, 250, 1173, and St. Paul Reinsurance Company Limited (n/k/a Union America Insurance Company Limited) or the Declaratory Judgment Counterclaims asserted by Reliance Insurance Company (In Liquidation) against Underwriting Members of Lloyd's of London Syndicates 79, 456, 47, 204, 219, 484, 435, 623, 839, 1096, 205, 250, and St. Paul Reinsurance Company Limited (n/k/a Union America Insurance Company Limited), which shall continue as to all remaining parties.

Dated:

3/24/2009

PEPPER HAMILTON LLP

By:


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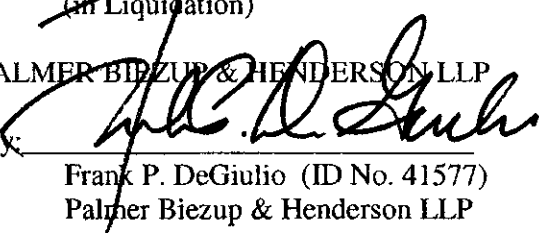
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(In Liquidation)

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Defendants

Dated:

3/25/09

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